

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 1980/CHNY/2025
निर्धारण वर्ष/Assessment Year: 2018-19

**Shri Vasudhevan
Muralidharan,**
25, Bangalore Ayyengar Bakery,
1st Street, Varnapuram,
Bhavani – 638 302.

The Income Tax Officer,
Vs. Ward 1(1),
Erode

PAN: BNRPM 8315H

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri T.S.Lakshmi Venkataraman,
F.C.A

प्रत्यर्थी की ओर से/Respondent by

: Ms. Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing

: 16.09.2025

घोषणा की तारीख/Date of Pronouncement

: 18.09.2025

आदेश/ ORDER

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 27.06.2025, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2018-19.

2. The solitary issue that is raised is whether the First Appellate Authority (FAA) is justified in confirming the addition made by the AO amounting to Rs.3,79,33,429/- as unexplained cash credit u/s.68 of the Act.

3. Brief facts of the case are as follows:

The assessee is an individual engaged in the business of manufacturing bakery products. For the assessment year 2018-19, the return of income was filed on 28.03.2019 declaring total income of Rs.4,97,480/-. The assessment was selected for scrutiny and notice u/s.143(2) of the Act was issued. During the course of assessment proceedings, the assessee was directed to explain the source of capital introduced amounting to Rs.3,85,68,143/- during the relevant assessment year. In response, the assessee submitted that assessee had sold two agricultural lands and two vacant sites for a sum of Rs.3,80,32,960/-. However, the source of introduction of capital was disbelieved by the AO and assessment was completed u/s.143(3) r.w.s.144B of the Act vide order dated 26.04.2021 wherein, he made an addition of Rs.3,79,33,429/- as unexplained cash credit u/s.68 of the Act. The AO also applied

special rate of taxation u/s.115BBE of the Act. The relevant finding of the AO reads as follows:-

“5 Notice U/s. 142(1) on various dates were issued to the assessee to produce information in respect of introduction of capital during the year. The assessee filed relevant requisite documents through the ITBA portal. The assessee furnished copy of sale deed, and 2 registered agreements in vernacular language. The same are perused.

The assessee's reply is reproduced as under:

"The Assessee sold the above Agricultural Lands which are located beyond 7 KM from the Municipal Limits which are non notified area and exempt from Capital gains and it is not a Capital Asset at all.

The Assessee also has constructed a self occupied residential house at Bhavani at a total cost of Rs. 68,50,000/- during the Period from 01.04.2018 to 31.03.2019 which has been disclosed in the Balance Sheet of Year ended- 31.03.2019 relating to Assessment Year: 2019 - 2020. Hence, the Capital gain does arise on sale of above two Vacant Sites since exemption U/s 54F of IT Act is claimed."

Notices dated 19.01.2021 and 02.02.2021 were issued to the assessee requesting to furnish the documentary evidence in support of agricultural land sold and claimed as exempt income by the assessee, However, the assessee has not produced documentary evidence to prove that the land sold are agricultural in nature. Show-cause notice in the form of draft assessment order dated 23.02.,2021 was issued to the assessee. In reply to the show-cause notice the assessee has produced copy of illegible certificate from village administrative officer in vernacular language. However, the certificate does not bears only a single entry of crop grown. The assessee has not produced the distance certificate from authority, population certificate from authority from the village, proof of carrying on agricultural activities prior to period of sale of land etc. The assessee has not produced any documents to prove that the land sold is agricultural in nature. Thus, the assessee has failed to prove that the introduction of capital is out of exempt income of Rs. 379,33,429/- (Rs. 385,68,143 (-) Rs.634,714/-). The assessee has failed to prove that the income of Rs. 379,33,429/- is beyond the purview of

taxation. He has not furnished necessary documentary evidence inspite of giving multiple opportunities as stated above. The assessee has not introduced the capital out of tax-paid money nor he has proved that the introduction of capital is through exempt income.

In view of the above, Rs. 379,33,429/- is added to the total income of the assessee as unexplained cash credits U/s. 68 of the Income-tax Act, 1961. The income is assessed U/s. 115BBE of the Income-tax Act, 1961. Penalty proceedings U/s. 271AAC are initiated separately.”

4. Aggrieved by the assessment order, assessee filed appeal before the First Appellate Authority (FAA). The FAA confirmed the order of the AO and dismissed the appeal of the assessee.

5. Aggrieved by the order of the FAA, assessee has filed the present appeal before the Tribunal. The assessee has filed a petition under Rule 29 of the Income Tax Appellate Tribunal Rules, 1963 for admission of additional evidence. The additional evidence that is sought to be admitted is copy of patta, chitta and adangal extracts to establish that lands sold are agricultural lands which are not liable for capital gains taxation. The Ld.AR's limited prayer was to set aside the matter to the AO. The Ld.AR submitted before the Tribunal that the AO in the impugned assessment order had stated that assessee had filed copy of illegible certificate from the Village Administrative Officer in vernacular language for claiming the lands sold are agricultural

lands. Therefore, additional evidence now produced goes to controvert the finding of the AO and the FAA. The Ld.AR also pointed out the mistakes in the order of FAA.

6. The Ld.DR supported the order of the AO.

7. We have heard rival submissions and perused the material on record. The solitary issue involved in this appeal is regarding the addition of Rs.3,79,33,429/- as unexplained cash credit u/s.68 of the Act, being the amount credited in the capital account of the assessee which was sustained by the FAA. The written submissions filed by the assessee before the FAA is extracted at page 4 & 5 of the impugned order of the FAA. In the above written submission, assessee had tried to explain the source of credits in the capital account. From the last para at page 5 of the FAA order, we find that the FAA has given a finding related to section 11(1) of the Act, which is not related to the case of the assessee. Further, from para 3.1 at page 3 of the appellate order, the FAA has adjudicated the grounds raised by the assessee with regard to section 10(23C)(iiiad) of the Act, which is contrary to the facts of the present case. Therefore, the finding of the FAA in dismissing the appeal of the assessee shows

complete non-application of mind. The assessee's claim is the source of credit in the capital account to the extent of Rs.3,79,33,429/- are out of sale consideration received from sale of two agricultural lands and two vacant plots. The assessee had claimed that the sale consideration of vacant lands are reinvested and claimed deduction u/s.54F of the Act to the extent of Rs.68,50,000/-. The assessee has filed a petition under Rule 29 of the Income Tax Appellate Rules, 1963 for admission of additional evidence. The additional evidence is with regard to documents to show that the lands sold are agricultural lands and are not liable for capital gains. The AO had disbelieved the claim of the assessee that the lands sold are agricultural lands by stating assessee had only filed illegible certificate from the Village Administrative Office and that to in vernacular language. Therefore, the additional evidences now produced before the Tribunal are absolutely necessary for adjudication of the issue in hand. Therefore, the additional evidence is taken on record. Since the additional evidences are taken on record, we deem it appropriate to restore the matter to the files of the AO. The AO is directed to afford a reasonable opportunity of hearing to the assessee before a decision is taken. The assessee is directed to

cooperate with the Revenue and shall not seek unnecessary adjournment. It is ordered accordingly.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 18th September, 2025 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 18th September, 2025

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Coimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.